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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/785,180	02/25/2004	Thomas Birkhoelzer	32860-000704/US	3381
30593 7590 04/06/2007 HARNESSE, DICKEY & PIERCE, P.L.C. P.O. BOX 8910 RESTON, VA 20195			EXAMINER SHAN, APRIL YING	
			ART UNIT 2135	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE			MAIL DATE	DELIVERY MODE
3 MONTHS			04/06/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	10/785,180	BIRKHOELZER ET AL.	
	Examiner	Art Unit	
	April Y. Shan	2135	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 February 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-32 have been examined.

Priority

2. Acknowledgment is made of applicant's claim for foreign priority under 35 U.S.C. 119(a)-(d). The certified copy has been filed in parent Application No. Germany 10307996.3, filed on 25 February 2003.

Should applicant desire to obtain the benefit of foreign priority under 35 U.S.C. 119(a)-(d) prior to declaration of an interference, a certified English translation of the foreign application must be submitted in reply to this action. 37 CFR 41.154(b) and 41.202(e).

Failure to provide a certified translation may result in no benefit being accorded for the non-English application.

Drawings

3. The drawings are objected to because they fail to show necessary textual labels of features or symbols or steps in Fig. 1 and Fig. 2 as described in the specification/claims. A descriptive textual label for each numbered element in Fig. 1 and Fig. 2 are needed to fully and better understand these figures without substantial analysis of the detailed specification. Any structural detail that is of sufficient importance to be described should be shown in the drawing.

Claim Rejections - 35 USC § 103

4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 1-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Deindl et al. (U.S. Patent No. 6,031,910).

As per **claims 1 and 8**, Deindl et al. discloses a method/facility for at least one of encrypting and decrypting data, comprising: performing a security check to ascertain an identity of a user ("authorizing a user assigned to a user group by means of an identification feature" – e.g. col. 6, lines 22 – 23 and e.g. col. 6, lines 33-43.

Art Unit: 2135

Please note authorizing a user corresponds to Applicant's performing a security check); assigning a data key, unviewable by the user, on the basis of a result of the security check ("generating one or more cryptographic keys in the chip card for use by a computer...encrypting at least one of cryptographic keys in the chip card with a second cryptographic key..." – e.g. col. 6, lines, 23-32. Please note the one or more cryptographic keys reside on the chip card and encrypted. Therefore, the keys are unviewable by the user).

Deindl et al. does not expressly disclose wherein the same data key is assignable to a plurality of users.

However, Deindl et al. discloses in col. 7, lines 57-63, "... The user card contains a set of group keys which the system operator defines....The group key varies according to his job in the health service and in accordance with medical specialty".

It would have been obvious to a person with ordinary skill in the art at the time of the invention, a group key is the same data key assignable to a plurality of users. In the Deindl et al. reference, a doctor with the same medical specialty shares a same group key.

The motivation of doing so would have been that the doctor with the same medical specialty can share the same group key and also provides time-saving to the system operator when defining keys for a group of doctors with the same medical specialty.

As per **claims 2 and 9**, Deindl et al. discloses a method/facility as applied above in claims 1 and 8. Deindl et al. further discloses wherein the security check involves checking biometric data of the user (e.g. col. 6, lines 33-43).

As per **claims 3 and 10**, Deindl et al. discloses a method/facility as applied above in claims 1 and 8. Deindl et al. further discloses wherein the security check involves checking a user-specific at least one of electronic and mechanical key ("In reading a file the doctor must be in possession of a user card 310. The user card 310 legitimizes the doctor as an authorized doctor in a particular specialty – e.g. col. 4, lines 53 –55 and col. 7, lines 57-63. Please note a doctor's user card corresponds to Applicant's a user-specific at least one of electronic and mechanical key).

As per **claims 4-5 and 11-12**, Deindl et al. discloses a method/facility as applied above in claims 1 and 8. Deindl et al. further discloses wherein the data key is ascertained by comparing the data obtained in the security check with content of a data key memory and wherein the data obtained in the security check are compared with the content of the data key memory using a data telecommunication device (e.g. col. 4, lines 26-36 and col. 4, lines 53-67).

As per **claim 6**, Deindl et al. discloses a method as applied above in claim 1. Deindl et al. further discloses wherein a plurality of data keys are simultaneously assignable to one user (e.g. col. 6, lines 23-25).

As per **claims 7 and 13**, Deindl et al. discloses a method/facility as applied above in claims 1 and 8. Deindl et al. further discloses wherein the data are medically relevant, wherein the users include personnel at a medical facility, and wherein common user groups are assigned the same data key (e.g. col. 7, lines 57-63).

As per **claim 14**, Deindl et al. discloses the claimed method of steps as applied above in claim 1. Therefore, Deindl et al. discloses the claimed information stored on a storage medium for carrying out the method of steps.

As per **claim 32**, Deindl et al. discloses a method as applied above in claim 1. Deindl et al. further discloses wherein users associated with a common user group are assigned the same data key (e.g. col. 7, lines 57-63 and see the above rationale in rejecting claim 1 above).

As per **claims 15 and 20**, they are rejected using the same rationale as rejecting claim 3 above.

As per **claims 16-17**, they are rejected using the same rationale as rejecting claim 4 above.

As per **claims 18-19**, they are rejected using the same rationale as rejecting claim 5 above.

As per **claim 21**, it is rejected using the same rationale as rejecting claim 11 above.

As per **claims 22 and 31**, they are rejected using the same rationale as rejecting claims 1 and 8 above.

As per **claim 23**, Deindl et al. discloses the claimed method of steps as applied above in claim 22. Therefore, Deindl et al. discloses the claimed information stored on a storage medium for carrying out the method of steps.

As per **claim 24**, it is rejected using the same rationale as rejecting claim 2 above.

As per **claim 25**, it is rejected using the same rationale as rejecting claim 3 above.

As per **claim 26**, it is rejected using the same rationale as rejecting claim 4 above.

As per **claim 27**, it is rejected using the same rationale as rejecting claim 5 above.

As per **claim 28**, it is rejected using the same rationale as rejecting claim 6 above.

As per **claim 29**, it is rejected using the same rationale as rejecting claim 7 above.

As per **claim 30**, it is rejected using the same rationale as rejecting claim 32 above.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. (See PTO-892).

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to April Y. Shan whose telephone number is (571) 270-1014. The examiner can normally be reached on Monday - Friday, 8:00 a.m. - 5:00 p.m., EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kim Y. Vu can be reached on (571) 272-3859. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

AYS
2 April 2007
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HIT 3
HOSUK SONG
PRIMARY EXAMINER